



# TOWN OF AMENIA

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## **PLANNING BOARD MEETING THURSDAY, JUNE 20, 2013 7:00 P.M. - 2<sup>ND</sup> FLOOR**

**PRESENT:** Chairwoman Peek  
Larry Moore  
James Walsh  
Norm Fontaine  
Nathan Roy  
Peter Clair  
Dave Everett, Lawyer  
Julie Mangarillo, Consultant

**ABSENT:** Tony Robustelli

**MOTION TO OPEN THE PLANNING BOARD MEETING** was made by James Walsh,  
seconded by Peter Clair

**Amenia Drive In**

**Site Plan**

**4957 Route 22  
Amenia, NY**

Chairwoman Peek first of all thanked Julie Mangarillo and Dave Everett for all their efforts and hard work to process this application so quickly and noted particularly their tireless work over the past week to prepare the required approval documents.

Amy Haight, consulting engineer from Crawford Associates for the Drive-In summarized plan changes since the 06/12 Planning Board meeting. A utility trench will be provided for the power cables to the projection booth, and lighting for the proposed sign, and a utility line was added to the temporary restrooms. As requested by Julie Mangarillo and Dave Everett, Amy added the notes to the Site Plan, the rules including what to do in case of a spill and how to handle traffic, etc. This additional information was provided to the Planning Board. The non-potable water sign will be installed over the faucets and at the entrance to the restroom trailer. A DOT approved/provided a "no left turn" sign will be posted within the property line at the right side of the Four Brothers exit on Route 44 and then a pavement marking with a right turn arrow with the word "only" will be painted on the driveway. Ms. Mangarillo asked whether the rules of conduct

would be handed out to patrons or projected out onto the screen or both. Ms. Haight said they were on now. Ms. Mangarillo noted that the Town Board approved a request to allowed the Town constables to do back up traffic when available. However, when the Constables are not available, the applicant will need a contract with Dutchess County Sheriff's or some type of law enforcement agency. Ms. Haight stated the Town of Amenia does not have a contract with the Dutchess County Sheriff's office and the Sheriff's won't allow a private entity to hire them. Ms. Haight was thinking of contracting with off duty firemen or volunteer firemen, who have been trained in traffic control. Jim Walsh stated the Fire Company hired the Sheriff's Department for traffic control, which is a private entity. Peter Clair felt the Sheriff's may do it for Fire Departments. Ms. Mangarillo felt they needed a back-up plan. Ms. Haight spoke to a Captain in the Sheriff's office and he felt it would not be a problem, however he deferred Ms. Haight to a woman who is in charge of the contracts and she said no they could not be hired by a private entity. This information will need to be provided before final plans are signed.

Discussion turned to the restroom trailers and Julie Mangarillo noted that she has spoken with Chris Waslowski of the Dutchess County Department of Health who indicated that the trailer would need to be NFS certified if they are serving water out of it. This would require NFS certified water source to the trailer. The other option is to post "non-potable water" signs above the faucets and at the entrances to the restrooms to ensure that no one drinks the water. Amy noted that the trailer providers would not claim that their trailer is providing NFS certified water. The applicant has decided to post "non-potable water" signs above the faucet and at the entrances to all the restrooms and therefore no approval or permit would be required by the Health Department.

Ms. Haight noted that there is already a potable water line running to the concession stand which is certified potable water approved by the DOH. Ms. Mangarillo asked if the potable water supply will be tested with the vacuum breakers so that nothing can get back into the restaurant water supply. Ms. Haight stated there is also the air vacs in the trailer itself the faucet cannot fill up and back flow. Ms. Haight went on stating they are going to bury the electric lines and provide an outlet.

Ms. Mangarillo was satisfied that everything was resolved, once they get the information on their Plan B for traffic control, and revise the drawings to indicate the electric line to the new sign going on Route 22, the site plan can be signed and a building permit issued. Mr. Everett confirmed for the record that posting the non-potable water signs would eliminate the need for DOH approval. Ms. Haight confirmed.

Ms. Peek asked if the Board had any questions. There were no questions.

Chairwoman Peek asked Dave Everett for the following Resolutions: (1) Resolution approving the Special Use Permit, (2) SEQRA Negative-Declaration and (3) Resolution adopting the Negative Declaration. Mr. Everett noted that the Resolution approving the SEQRA Neg. Dec Resolution would need to be revised to eliminate the DOH condition of approval as that was no longer required and add the updates of the new plan, a condition for the Utility Trench to the sign and provision of a contract with another company or agency for traffic control. Ms. Peek asked Mr. Everett to do the revisions for the SUP/SP and Ms. Mangarillo to do the revision to the Neg Dec.

MOTION TO ADOPT THE SEQRA NEGATIVE-DECLARATION FOR THE AMENIA DRIVE-IN was made by James Walsh, seconded by Nathan Roy

Roll was called:

Chairwoman Peek	Yes
James Walsh	Yes
Joseph Fontaine	Yes
Larry Moore	Yes
Peter Clair	Yes
Nathan Roy	Yes
Anthony Robustelli	Absent

MOTION CARRIED

MOTION TO ADOPT THE RESOLUTION APPROVING THE SPECIAL USE PERMIT/SITE PLAN FOR THE AMENIA DRIVE-IN THEATER was made by Nathan Roy, seconded by Peter Clair

Roll was called:

Chairwoman Peek	Yes
James Walsh	Yes
Nathan Roy	Yes
Peter Clair	Yes
Larry Moore	Yes
Joseph Fontaine	Yes
Anthony Robustelli	Absent

MOTION CARRIED

**Silo Ridge****Special Use Permit Extension****Route 22  
Amenia, NY**

Chairwoman Peek stated for those not in attendance last meeting the Board agreed to extend the Special Use Permit for Silo Ridge for another two years. James Walsh asked what is the purpose of extending the resolution if Silo Ridge is not doing anything. Peter Clair stated they had been at Silo Ridge all week getting stuff done. The new team is working. Norm Fontaine stated Silo was talking about coming back in October with a revised plan to scale down the project.

Ms. Peek stated before her is the Resolution to extend the Special Use Permit for Silo Ridge Resort Community for another two years which would be extended to June 25, 2015.

MOTION TO APPROVE THE RESOLUTION TO EXTEND THE SPECIAL USE PERMIT FOR SILO RIDGE RESORT COMMUNITY UNTIL JUNE 25, 2015 was made by Peter Clair, seconded by Nathan Roy

Roll was called:	Chairwoman Peek	Abstain
	Anthony Robustelli	Absent
	Nathan Roy	Yes
	James Walsh	Abstain
	Larry Moore	Yes
	Norm Fontaine	Yes
	Peter Clair	Yes

MOTION CARRIED

**Cozy Corner/Daisey May****Special Use Permit****3330 Route 343  
Amenia, NY**

Brian Houston gave the Board a revised plan. In response to Julie Mangarillo's memo Mr. Houston inventoried on-street parking on Route 343. There are 41 on-street parking spaces from approximately 320' west of the Cozy Corner, which would meet the parking requirement for the restaurant and pub. Brian also provided a proposed outdoor seating reducing the number of tables to 4 on the Route 343 side, each one has two chairs for the table.

Ms. Mangarillo asked about the design capacity of the sewage treatment system, the approved number of seats in the restaurant, the pub and the apartments upstairs and whether this would include the 8 outdoor seats. Ms. Mangarillo noted that the BOH should be consulted to confirm sufficient capacity.

Mr. Flood has called and has not gotten much feedback from BOH. Ms. Peek asked if there was a sign on the inside of the door that states maximum occupancy which is based on the Fire Codes and the Department of Health approvals. Mr. Houston stated the maximum occupancy and the BOH approval are designed for 30 seats in the restaurant, 20 seats in the Pub and 5 bedrooms for the 3 apartments. Mr. Flood stated that there were more than 30 seats at present in the restaurant – but when the pub opens, the seating would be reallocated so that it would not exceed the approvals. After the pub opens, the 8 requested seasonal outdoor seats would exceed the allowed amount and would require revised approvals from BOH. Peter Clair asked about the speakers outside. Mr. Houston stated he didn't feel there was an issue, however there are speakers outside. An audience member offered comment regarding meeting/exceeding allowed decibel levels at night and indicated that John Fenton was looking into a previously submitted complaint. Ms. Peek asked whether the Noise Ordinance specified decibel levels. Mr. Everett stated Chapter 80 of the Town Code addressed Noise management, as did the Environmental Performance Criteria section of the Zoning Code. Mr. Everett noted that if there was a noise complaint, it would not be an issue for the Planning Board, but rather an enforcement issue.

Chairwoman Peek stated that the Planning Board had received three letters regarding this application: (1) Dutchess County Referral Letter – stating it was a matter of local concern; (2) a letter from the Webutuck Central School District addressed to Ms. Peek, not specifically about this application but rather about parking on Mechanic Street. Ms. Peek noted that prohibition of on-street parking on Town Roads is not under the purview of the Planning Board, but rather the Town Board, who were in the process of evaluating this issue; and (3) a letter from Cheryl Morse. Many of the questions in Ms. Morse's letter are not Planning Board questions; they are more Building Inspector or Zoning Enforcement Officer questions, but Ms. Peek responded to Planning Board related questions as follows:

#5 – The Planning Board does not regulate the paint colors in the Historic District or anywhere else. Although there may have been some discussion about preparing design guidelines for the Historic District pre-2006, no official document was ever adopted.

#6 – The question regarding the freezer, John Fenton sent a letter which was read into the record and is attached hereto.

#8 – The parking issues – related to potential conflicts with Temple Beth David. The revised Site Plan quantifies and locates sufficient on-street parking (on Route 343, west of the intersection with Mechanic Street) to accommodate the requirement.

Request for Anthony Robustelli to recuse himself from voting on this application. Mr. Robustelli is not present at the meeting and therefore will not vote on the application.

Ms. Mangarillo's last concern related to a requirement for additional DOH approvals for outdoor seating. Ms. Mangarillo asked Mr. Everett whether the Board could condition the approval to indicate that once the pub is open, the Applicant would be required to seek additional BOH permits/approvals for the requested outdoor seating. Mr. Houston will make that note for the plan. Mr. Flood stated he will withdraw the outdoor seats. Bethany Ralph, attorney for Mr. Flood stated that they needed to show for the liquor license what the final configuration is going to be and they didn't want to delay the licensing and would therefore withdraw the request for outdoor seating.

Mr. Everett stated because this is a Type 2 action, it is exempt from SEQRA and if the Board so authorizes, Mr. Everett will prepare the approving resolution, which would include language varying the parking standards to allow for on-street parking to meet their requirement.

MOTION TO AUTHORIZE DAVID EVERETT TO PREPARE AN APPROVAL RESOLUTION FOR DAISEY MAY REALTY SITE PLAN was made by Nathan Roy, seconded by Peter Clair

VOTE TAKEN - MOTION CARRIED

MOTION TO AUTHORIZE CHAIRWOMAN PEEK SIGN THE RESOLUTION AS WRITTEN BY DAVID EVERETT was made by James Walsh, seconded by Peter Clair

VOTE TAKEN - MOTION CARRIED

**Bittersweet Landscape & Nursery**

**Site Plan/  
Special Use Permit**

**3417 Route 343  
Amenia, NY**

Larry Moore will be representing the Applicant on this matter. He therefore submitted a letter to the Planning Board Secretary and emailed a copy to each Board member recusing himself from the Board for the Bittersweet Landscape & Nursery application.

Mr. Moore is representing the Applicant, Bittersweet Landscape & Nursery and in conjunction with Stone Resource, Sam Bailey, owner of the property. Stone Resource runs a site at 3417 Route 343 where they operate a retail business selling, contracting and delivering stone. Mr. Bailey felt it would be good to supply landscape and nursery items at the same location. He contacted Dominick Lopane, who does landscaping in the area and they put together a plan to sell nursery items on site. They also provide landscape contracting services. At present there is

limited area where this activity could occur as there are wetlands on the property. They are not encroaching on the wetlands. They wish to do this as an accessory business.

Chairwoman Peek asked Mr. Moore to explain the sequence of events for this application for the record because there was some irregularity with the process. That is, specifically, Mr. Bailey spoke with Mr. Fenton back in March about the process for reviewing this application. Mr. Fenton explained what they needed to do, and Mr. Bailey disregarded the direction, opened anyway without any approvals, requiring Mr. Fenton issued an order to remedy. This is not the way we like to operate. Mr. Moore stated they had every intention to file however just jumped the gun and started the business. Mr. Bailey might have been under the impression that the site plan approval that he had for Stone Resource did allow for this type of sale. However, Mr. Moore noted that they tried to locate the prior site plan approval and couldn't find it. Ms. Peek stated there is no file for the wholesale stone business (which opened after the Zoning Code passed in 2007) and is entirely prohibited within the Zoning District. There is also no application and no plans either here or with the County or any paperwork whatsoever, that the Bailey's received any approval for the Stone Resource business. Mr. Moore stated they may have to amend their application to include Stone Resource as well.

Mr. Moore explained that originally they were going to put up greenhouse, however after speaking with the surveyor; there was no way to do that due to the wetlands. The building couldn't be within 100' buffer zone for the wetlands. However, it is impression the nursery items may be located within 30' of the wetland buffer zone. The nursery items are located on the gravel area. Lyndon Chase, the surveyor of the property gave Mr. Moore a map and it shows that the required 100 foot buffer does cover a significant part of the area. It was Mr. Chase's opinion that anything pre-existing, the gravel, the driveway and the barns that those would be pre-existing non-conforming uses. Ms. Peek asked what was new and what existing on the map. Mr. Moore stated everything on the map is existing. The map does not show any proposed uses. Mr. Moore indicated Mr. Chase will do a new survey.

Ms. Peek stated the applicant needs to put together a new complete Site Plan application package indicating what they would like to do with the property. Because there is no site plan approval for the Stone Resource business, this application will have to show that as well. The Site Plan should clearly show what is proposed on the site, including any structures, pads, impervious surface, number and location for parking areas, including handicapped spaces, utility (water/electric), bathrooms, etc., Mr. Moore should review the Zoning Code for Site Plan application requirements and provide all the required information. Peter Clair asked if they had the paperwork from any prior applications. Mr. Moore stated he didn't think they did. James Walsh stated they never came before the Board. Peter Clair asked how long they had been in business. Mr. Moore stated 2010 as a retail operation. Ms. Peek indicated that this post-dated the new zoning and therefore Site Plan approval would have been required.

James Walsh asked if they were using any chemicals. Mr. Moore stated they were not. He added they were working with Heather Gearloff of DEC. Ms. Mangarillo asked if we could get a letter from DEC regarding the property and waiver for the buffer zone. Mr. Everett stated they would need a DEC permit and asked what the total disturbance was. Mr. Moore said for the new nursery less than an acre but the disturbance for the whole operation was approximately 3 ½ acres. Mr. Everett asked if there were storm water controls on the site. Mr. Moore didn't know. Ms. Mangarillo asked when the buildings and driveway were built. Mr. Moore believed they were built in the 80's. Norm Fontaine added the driveway was from a welding business on the property. Mr. Everett asked if they had CO's for the buildings. Mr. Moore was not sure. Ms. Mangarillo said they would need handicapped parking. She also asked if there was any type of store. Mr. Moore stated no, everything is outside. Nathan Roy asked if they were going to have a shed if you wanted to use a credit card. Mr. Moore stated they may have something in the front of the shop area, but are not going to construct any shed or building.

Ms. Peek stated originally there were going to be animals there and was that still contemplated. Mr. Moore stated no.

Mr. Everett asked if the map provided showed the wetlands delineation. Mr. Moore stated the maps provided do show the wetlands delineation that was done in 2010. Ms. Peek asked if Mr. Bailey had the JD from DEC. Mr. Moore was not sure if the applicant has it or not. Nathan Roy remembered there was an issue and Mr. Bailey had gone through a lengthy process with DEC in the beginning. Jim Walsh asked if it was zoned commercial. Larry Moore said it was HM (hamlet mixed use) which allows retail not wholesale business. Mr. Everett stated they need to put the zones on the map. He continued to ask if he had DEC permits for anything. Mr. Moore stated Mr. Bailey has not provided him with any permits so he will go to DEC to see what they have. Mr. Everett stated that if the right permits are not in place then they will need to get them. Ms. Peek stated the front of the property is in the HM zone and behind that is in the SR zone. She asked what did John Fenton tell them about continuing to operate. Mr. Fenton told them they could still operate as long as they file an application with the Planning Board. Mr. Moore will submit the necessary materials in time for the July 18, 2013 meeting.

The EAF indicates that the project would be completed in two phases. Mr. Everett asked Mr. Moore to clarify. Mr. Moore stated it is not anticipated to be completed in two phases, only one phase is contemplated. Mr. Moore will revise the application and include the Stone Resource business. After the application is filed, Mr. Everett will determine the required SEQRA approval. Norm Fontaine asked if DEC is aware of what is already there and whether they have signed off. Mr. Moore said yes and believed that the map was countersigned by DEC, but that is not shown on this map. Mr. Moore stated that his understanding is that Lyndon Chase, the surveyor, has a map signed by DEC. Ms. Peek stated that there is nothing in our files for Stone



Resource and Jim Walsh reiterated it. The County has no record of this or any subdivision for the property. Tom Werner asked who owns this property. Mr. Moore stated that the record owner is Samuel Bailey and he does have a deed to the property and that is filed with Dutchess County. Jim Walsh asked when the subdivision occurred and Mr. Moore felt it was in 2010 but maybe sooner than that, however, there is no record of the subdivision filed with The County and therefore it cannot be considered an approval. Mr. Moore will need to provide documentation of the approved subdivision with the revised application materials.

**OTHER MATTERS:**

Ms. Peek asked if everyone is doing well with the town email. Norm Fontaine still finds it hard when the documents are large to go back and forth. Norm and Tony will continue to receive hard copies in the mail.

MOTION TO CLOSE THE PLANNING BOARD MEETING was made by Peter Clair,  
seconded by Larry Moore

VOTE TAKEN - MOTION CARRIED

Respectfully submitted,

Susan M. Metcalfe  
Planning Board Secretary

The foregoing represents unapproved minutes of the Town of Amenia Planning Board from a meeting held on June 20, 2013 and are not to be construed as the final official minutes until so approved.

\_\_\_\_X\_\_\_\_Approved as read 08-01-2013

\_\_\_\_\_Approved with: deletions, corrections, and additions